

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6069 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
Nos. 1 to 5 No.

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BALASAGJI LAXMANJI RATHOD (THAKORE)

Versus

STATE OF GUJARAT

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Appearance:

MR.H.R.PRAJAPATI FOR M/S THAKKAR ASSOC. for Petitioner  
MR.NEEGAM SHUKLA,AGP for Respondents.

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CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 06/11/96

ORAL JUDGEMENT

This Special Civil Application is directed against the detention order dated 16.4.1996 passed by the District Magistrate, Mehsana whereby the petitioner has been detained under the provisions of Gujarat Prevention of Antisocial Activities Act, 1985. The detention order was executed on 16.5.1996 and since then the petitioner is under detention lodged at Jamnagar Jail.

The grounds enclosed with the detention order show that five criminal cases were registered against the petitioner for the offences under the Prohibition Act. Besides this the Detaining Authority has taken into consideration the statements made by four witnesses against the petitioner's antisocial activities. The petitioner has been beating innocent people, has been moving with the weapons and has been detained as bootlegger.

The order of detention is challenged on more than one grounds. The learned counsel for the petitioner has stressed the point that it is not a case of breach of public order.

In view of the reasons given in the judgment dated 4.10.1996 in Special Civil Application No. 3879 of 1996 it is clear that the allegation and material relied upon by the Detaining Authority against the petitioner do not constitute the case of breach of public order and it can at the most be said that it is a breach of law and order. The detention order therefore deserves to be set aside on this ground alone.

Accordingly this Special Civil Application is allowed. The impugned detention order dated 16.4.1996 passed by the District Magistrate, Mehsana is hereby quashed and set aside. The petitioner's detention is declared to be illegal. The respondents are directed to release the petitioner forthwith if not required in any other case. Rule is made absolute.

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